United Nations A/HRC/34/NI/9

General Assembly

Distr.: General
24 February 2017

Original: English

Human Rights Council
Thirty-fourth session
27 February-24 March 2017
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written submission by the Commission on Human Rights of the Philippines*

Note by the Secretariat

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GE.17-03135(E)

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Annex

[English only]

Submission by the Commission on Human Rights of the Philippines

Annual Full-day Meeting: Rights of the Child

Right to Education

1. "The Philippine government has responded to the challenge of the UNCRC and other international obligations on education with a fairly adequate policy environment and an increasing budget. It has instituted policies geared towards improving access to early childhood education, basic education, technical-vocational education, and non-formal education. Programs and coordinating bodies were established to create equity for education among minority groups such as Muslims, children in indigenous communities, children with special needs, and the very poor. Its biggest feat is institutionalizing the K-12 Program, whose main feature is the addition of two years in basic education to bring the country's basic education cycle at par with the others. The K-12 Program likewise responds to the goals of education for sustainable development specified in SDG 4. Moreover, DepEd has instituted the school-based Disaster Risk Reduction Management and the Child Protection Policy, in order to provide further protection for children in the schools. The Conditional Cash Transfer program on the other hand aimed to support attendance among very poor."[1]

Migration has a negative impact on children and families

2. In a recent Systematic Literature Review on Drivers of Violence affecting Children in the Philippines (2015), migration has been identified as one of the drivers of physical, sexual and emotional violence against children.

3. "Migrant orphans deal with the impact of migration, with its "side-effects". Often, adults perceive migration as a means of economic empowerment for the family but what most fail to see is the impact on the children, which usually depends on the developmental stage when the parent or parents left in tandem with other socio-cultural factors. In general, the younger the child, the more difficult and deeper the effects, and with adolescents the effects are more visible. Adjusting to the changes brought about by parental migration, children become susceptible to bullying, poorer social adjustment, constant wish to be with parent and longing for parent's love, enmeshment and reversal of roles with older children becoming caregivers to their siblings, changing roles of parents, migration perceived as the passport to a better life without thinking of psychological costs, creating a generation that equates money and gifts to show care and love, and increased risk of abuse."[2]

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[1] Discussion Paper on Access to and Quality of Education: The perennial problems of basic education and how do we go beyond business as usual, Civil Society Coalition on the Convention on the Rights of the Child Inc. (CSC-CRC), November 2016

[2] Executive Summary on Research Forum:Boys and Girls at Risk, National Baseline Study on Violence Against Children, Council for the Welfare of Children in partnership with UNICEF, item 2,8, p. 8.

Alcohol Use is a Primary Driver of Violence in the Home

4. "There are existing laws that prohibit the sale of alcohol without a permit issued by the local government. However, small sari-sari stores sell alcohol in communities, thus making them more accessible and prone to abusive use. Stricter monitoring is needed to be done. DOH has existing campaigns on preventing lifestyle diseases which includes discouraging alcohol abuse. However, this program needs to be enhanced with prevention of VAC since the Systematic Literature Review on Drivers of Violence affecting Children in the Philippines (2015) noted that alcohol use is a primary driver of violence in the home."[3]

Information and Communications technology have changed the opportunity, scale, form and impact of exploitation and violence.

5. "Over the years there have been evolving manifestations of sexual exploitation and abuse online; and these include sexual abuse images of children, sexual grooming, 'sexting' or self-produced content, sextortion, and the live-stream shows of child sexual abuse. Perpetrators have tapped into this increasing access to technology, giving them more opportunities to reach children. It also gives them false sense of anonymity, an opportunity to form their own community online to share and distribute child abuse images, and validate their own deviant behaviours. The exploitation and abuse of children online has become a major threat to children's well-being, growth and development, and must be treated as critical component of a broader and comprehensive strategy to prevent and respond to Violence against Children (VAC)."[4]

The Philippines has the youngest age of sexual consent in Asia

6. "The indicative survey of age of sexual consent in Asia showed that the Philippines has one of the youngest at 12 years old while Bahrain the oldest at 21 years old; other countries in the region fluctuate between 14-18 years old. In the Philippines, there really is no minimum age of sexual consent. However, the law on statutory rape (12 years old), the anti-rape law on marriageable age (18 yrs old) are considered setting such age, as reported by the Philippines in its first two country implementation reports on the Convention of the Rights of the Child (CRC). For that, it is recommended that the Philippines should seriously consider to raise the limit of sexual content. One of the challenges to this advocacy was the lack of traction from previous efforts, that it began in the 12th Congress but still critical to continue to work using a multidisciplinary approach and consider other cultural practices and laws such as Sharia Law."[5]

Impact of the War on Drugs on Women and Children

7. With the new administration's focus on the war on drugs and the rising number of alleged extrajudicial killings (EJKs) the Commission has been focused as well in the investigation and monitoring of extrajudicial killings of men and women allegedly involved in drugs. Since the President took office, the PNP has reported 5,617 drug related killings, 1, 959 reportedly at the hands of the police, and 3,658 from vigilante killings. Of this

[3] Executive Summary, 2015 National Survey Results Recommendations, Council for Welfare of Children in partnership with UNICEF, p. 7

[4] *Executive Summary on Research Forum Boys and Girls at Risk*, National Baseline Study on Violence Against Children, Council for the Welfare of Children in partnership with UNICEF, item 2.5, p. 8.

[5] Ibid, item 2.7, p. 8

number, the Commission has commenced investigation of 346 cases involving 430 victims of alleged EJKs. Of the 430 victims, 19 or 4% are females, and these include the 5 victims who were not the actual targets of the killings and considered collateral damage. Five of the 19 women were either wife or live-in partners of suspected drug personalities, but were alleged to also be involved in illegal drug trade. For the rest, the victims were killed by police officers or unidentified assassins on suspicion of being drug pushers or links with drug-related activities.

8. In the conduct of the Commission's investigation, monitoring and reporting of EJKs, the Commission focuses as well on the gendered nature of the war on drugs – how it affects women and children and how this war has impact on women and children's enjoyment of their human rights. In the report of the Commission's Protection Office, the following were highlighted:

a. While lesser in number, women are likewise victims in the government's war on drugs. Records of the Commission show 19 of the 430 victims were women, and of this number 5 victims were not actual targets of the killings.

b. Investigation of the Commission's regional offices also reveal that family members of victims of EJK are affected in various ways by the killings, as families and women left behind, the families of the victims often witnessed the killings and thereafter left to fend for their own and their children, they are often left with questions of safety and security and of the burden of seeking justice and of identifying and burying their dead. In some cases, they are likewise victims of human rights violations. In Region 5, it has been reported that drug related EJKs and other violations cause emotional distress and psychological suffering to the victim's widow and children who are constantly in fear for their lives. This insecurity impacts their choice of residence and means of livelihood or economic status as most of these families are forced to relocate or live somewhere else. The regions also report that these survivors often find it nearly impossible to find witnesses with first-hand knowledge and that even if they do – most do not have the courage to seek justice, lacking confidence in the criminal justice system and for fear of reprisal.

c. Reports from the Commission's regional offices likewise show that families left behind, often wives, live in partners, children or mothers of victims suffer from trauma, fear and other psychological problems. Children bore witness to the killing of their fathers, wives and live in partners see their husbands dragged only to hear of their subsequent deaths, and there are reports as well of mothers, identifying cadavers of sons, and of waiting for sons who never returned.

d. Another gendered impact of the war on drugs is the economic burden on women caused by the deaths of husbands and live-in partners. The Commission's protection office has reported that the victims of the government's war on drugs are primarily from low socio-economic status. When the victims die, they hardly leave anything behind. The women, live-in partners, mothers and children who are left behind are often left with no livelihood and no means to support themselves. Saddled with the care of children, the details of burials and issues of safety and security, and access to justice for the killing, women's multiple burden is even more pronounced in the context of the country's war on drugs.

9. As the government continues to wage its war on drugs, as the number of deaths increase, as well as the number of detainees and surrenderees, areas that have not been duly attended to would have to be addressed. The impact of the war on drugs on women and children cannot remain invisible and unaddressed. They must be raised, they must be identified, and they must be aptly responded. The Commission commits to continue its investigation, including its focus on this specific area on the government's war on drugs[6].

[6] CHR Gender Ombud Report 2016

Minimum Age of Criminal Responsibility

10. A proposed legislation that seeks to revert the Minimum Age of Criminal Responsibility fifteen (15) to nine (9) is currently filed in the Congress. According to the proponents of this bill[7], it is the policy of the State to ensure that the Filipino youth are taught to accept responsibility for their words and deeds as early as possible, and not to unduly pamper them with impunity from criminal responsibility. In addition, the lawmakers believe the time is ripe for the age of criminal responsibility to be lowered to nine (9) years old considering that most children above this age, especially in these times, are already fully informed because of the wealth of information that they can easily access through the use of technology[8].

11. Under the proposed measure, a child nine (9) years of age and above but below 18 years old shall be exempt from criminal liability and subjected to an intervention program unless he/she is determined to have acted with discernment, in which case he/she shall be subjected to appropriate proceedings in accordance with the proposed law. On the other hand, a child under the age of nine (9) at the time of the commission of the offense shall be exempt from criminal responsibility but shall be subjected to an intervention program.

12. The Commission on Human Rights opposes any amendments which will lower MACR. It affirms its previous stance that lowering the MACR oversimplifies the nature of juvenile offending and violates the fundamental principles of child protection and welfare as provided for by laws, international treaties, and internationally-accepted standards and principles.

13. In lieu of the proposed legislation lowering the MACR, the Commission recommends that the government fully implement RA 9344, as amended by RA 10630, by:

e. allocating funds for building/restoring Bahay Pag Asa Facilities in every province and highly-urbanized cities;

f. employing multi-disciplinary personnel that will provide individualized and efficient community-based and/or center-based interventions for CICLs, the victims and their families;

g. continuously capacitating all professionals working with the juvenile justice system on relevant international standards and the JJWA;

h. regularly visiting Bahay Pag-Asa Facilities and other youth homes to assess the operations and physical condition of these facilities and to monitor the human rights situation of the children detained therein; and

i. popularizing, through information dissemination, the basic provisions of JJWA and restorative justice for better appreciation of the public.

14. The Commission further recommends that the law enforcers step up their campaign against syndicates who are using minors to commit crimes while keeping in mind that in these cases, children should not be treated as criminals but victims who need to be rescued and protected[9].

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[7] House Bill 002 was filed by incoming Speaker Pantaleon Alvarez, and Capiz Rep. Fredenil Castro

[8] Arcangel,Xianne, "Incoming Speaker Wants Age of Criminal Responsibility Lowered to 9", GMA News, Published July 6, 2016, Web 28 August 2016

[9] CHR Position Paper on Lowering the Age of MACR, 11 November 2016